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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,867	12/05/2001	Clifton A. Alferness	1931-7-3	5299

7590 03/19/2004

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EXAMINER

CHATTOPADHYAY, URMI

ART UNIT	PAPER NUMBER
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3738

16

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

POST AVAILABLE NOW

Office Action Summary

Application No.

10/011,867

Applicant(s)

ALFERNESS ET AL.

Examiner

Urmi Chattopadhyay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 5, 13, 14 and 23-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-43 is/are allowed.
- 6) ☒ Claim(s) 4, 5, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 15.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Request for Continued Examination

1. The request filed on 2/11/04 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on Application No. 10/011,867 is acceptable and a RCE has been established. An action on the RCE follows.

Allowable Subject Matter

2. The indicated allowability of claims 4, 5, 13 and 14 is withdrawn in view of the reference(s) to Solem et al. (USPAP 2001/0018611), Langberg et al. (USPN 6,402,781) and Pai et al. (USPAP 2003/0078465). Rejections based on the cited reference(s) follow.
3. Claims 23-43 are allowed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 5, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solem et al. (USPAP 2001/0018611 as cited in applicant's IDS) in view of Pai et al. (USPAP 2003/0078465 as cited in applicant's IDS) and Langberg et al. (USPN 6,402,781 as cited in applicant's IDS).

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Solem et al. discloses a device for effecting mitral valve annulus geometry of a heart with all the elements of claims 4, 5, 13 and 14, but is silent to the first or second anchor being self-expanding and to a lock that locks the cable on the second anchor. See Figure 13 and [0054] for a first anchor (23) configured to be positioned within and fixed to the coronary sinus of the heart adjacent the mitral valve annulus within the heart, a cable (27) fixed to the first anchor and extending proximally from the first anchor within the heart, and a second anchor (25) configured to be positioned in and fixed in the heart proximal to the first anchor and arranged to slidably receive the cable (27). Geometry of the mitral valve is effected when the first and second anchors are fixed within the heart and the cable is proximally drawn, thereby reducing the space between the anchors. Pai et al. teaches a tensioning device positioned in the coronary sinus, wherein the device includes proximal and distal anchors (32) that are self-expanding in order to anchor the device to and within the vessel. See [0085] and [0100]. Also, the anchors of Solem et al. are in the form of stents and it is old and well known in the art that stents can be self-expanding. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Pai et al. to modify the device of Solem et al. by making the first and second anchors self-expanding. Langberg et al. teaches a percutaneous mitral annuloplasty device that is positioned in the coronary sinus, wherein the device includes a lock to lock a forming element to the proximal end of the device in order to maintain sufficient tension in the forming element to reconfigure the device to a remodeling orientation. See Figure 2 and column 8, lines 47-58. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to look to the teachings of Langberg et al. to modify the device of

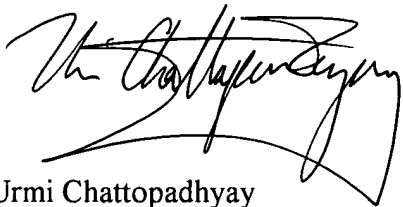
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Solem et al. by including a lock on the second anchor in order to lock the cable to the second anchor in sufficient tension to maintain the reduced spacing between the anchors.

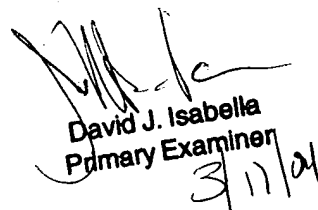
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 872-9306. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmi Chattopadhyay

Art Unit 3738



David J. Isabella
Primary Examiner
3/17/04

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